IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 212 OF 2003

KUM.INEZ LUDOVINA DA COSTA,CURCHOREM-GOA. ....Petitioner

Versus

SHRI JANARDHANA R.SINAI KUDCHADKAR(DEC) BY L.RS. ....Respondent

Shri Valmiki Menezes, Mr.S. G. Bhobe R.2 To 13 & 24

Coram:- V.C. DAGA, J.

Date:- 23rd August, 2006

P.C.

This petition is directed against the order date 10th April , 2003 passed below Ex.73, in Special Civil Suit No. 12 of 2002A by the Civil Judge, S.D., Quepem, whereby application at Ex.73 filed by the plaintiff seeking impleadment of Smt. Shantabai Rsghuvir Sinai Kudchadkar came to be rejected.

2 The Trial Court while rejecting this application relied upon amended part of the Order 6 R.17 of the CPC; which admittedly is not applicable to the present suit, since suit itself was filed prior to amendment. Consequently, the trial Court was wrong in applying amended part of Order 6 Rule 17 of CPC.

3. Factually, the application was under consideration under O.1 R.10 of CPC;seeking impleadment; though it was styled as an appliation for amendment. In the affidavit, filed by the defendants by way of evidence it was for the first time stated that presence of Smt. Shantabai Raghuvir Sinai Kudchadkar was necessary for resolving the questions involved in the suit. That is why it became necessary for plaintiff to apply for

impleadment of Smt.Shantabai.

4. Learned Counsel appearing for the respondent though tried to support the order but he could not take his submission to the logical end. At the end off his submission, he submitted that he did not have serious objection in permitting imleadment of Smt.Shantabai Ravhuvir Kudchadkar as a party-defendant to the suit. He tried to suggest that not only Smt.Shantabai but lot many other persons are left out in the suit. Since the issue before me is only whether or not Smt.Shantabai should be allowed to be impleaded as such it is not necessary to consider another sumission made by the Counsel for the respondent.

5. Thus, looking to the consensus between the parties the impugned order is set aside and Smt.Shantabai is allowed to be impleaded as a party defendant to the suit, who is to be shown as defendant No.25. Necessary amendment to be carried out within one week from the date of receipt of copy of this order. Parties to the suit are directed to appear before the trial Court on 30th August 2006, to enable the trial Court to fix date of hearing.

6. Petition stands disposed of in terms of this order with no order as to costs.

V.C. DAGA, J.

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